

REMARKS

This is intended as a full and complete response to the Restriction Requirement dated October 20, 2004, having a shortened statutory period for response set to expire on November 20, 2004.

Election/Restrictions

Claims 1-24 are restricted under 35 U.S.C. 121 as follows:

Group I, claims 11-22, drawn to process of making a semiconductor device.

Group II, claims 1-10, drawn to a semiconductor device.

Applicants provisionally elect group II, claims 11-22 for examination and respectfully traverse the restriction requirement.

The Examiner takes the position that the groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner appears to have applied the unity of invention practice to the present case.

As stated in MPEP 1893.03(d), unity of invention (not restriction) practice is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371. Restriction practice continues to apply to U.S. national applications filed under 35 U.S.C. 111(a), even if the application filed under 35 U.S.C. 111(a) claims benefit under 35 U.S.C. 120 and 365(c) to an earlier international application designating the United States or to an earlier U.S. national stage application submitted under 35 U.S.C. 371. *Id.*

Applicants respectfully submit that the Examiner has improperly applied the unity of invention practice to the present case which is filed as a continuation application claiming benefit under 35 U.S.C. 120 to a PCT application.

Regarding restriction practice, as outlined in MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

PATENT
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Attorney Docket No.: INFN/WB0035

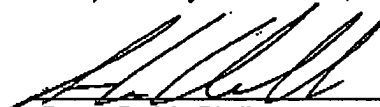
(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

Applicants respectfully submit that the Examiner has not provided any substantive analysis with respect to the criteria listed in MPEP § 803. Furthermore, MPEP § 803 requires that the Examiner must provide reasons and/or examples to support conclusions. Applicants submit that the Examiner has not provided sufficient information for the Applicants to make a proper response to the restriction requirement. Withdrawal of the restriction requirement is respectfully requested.

Having addressed all issues set out in the Restriction Requirement, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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